

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12

LIFEFLEET SOUTHEAST, INC.,  
a wholly owned subsidiary of  
AMERICAN MEDICAL RESPONSE  
MANAGEMENT, INC., d/b/a AMERICAN  
MEDICAL RESPONSE WEST FLORIDA  
DIVISION<sup>1</sup>

Employer

and

Case 12-RC-8899

INTERNATIONAL ASSOCIATION OF EMTS  
AND PARAMEDICS, SERVICE EMPLOYEES  
INTERNATIONAL UNION – NATIONAL  
ASSOCIATION OF GOVERNMENT  
EMPLOYEES, AFL-CIO<sup>2</sup>

Petitioner

**REGIONAL DIRECTOR'S DECISION AND  
DIRECTION OF ELECTION**

The Employer, Lifefleet Southeast, Inc., a wholly owned subsidiary of American Medical Response Management, Inc., d/b/a American Medical Response West Florida Division, provides ambulance service. The Employer has operations in Pinellas County and Hillsborough County, Florida. The Petitioner filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit including emergency medical technicians (EMTs), paramedics, materials management employees, system status controllers (SSCs), and certain other employees employed by the Employer at its Largo facility, which is located in Pinellas County, Florida. A hearing officer of the Board held a hearing and the parties filed briefs with me.

The parties disagree on whether registered nurses must be included in the unit and whether the unit must include employees, including drivers, who are employed in Hillsborough

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<sup>1</sup> The Employer's name appears as amended at hearing.

<sup>2</sup> The Petitioner's name appears as amended at hearing.

County.<sup>3</sup> The Employer argues that its Pinellas County and Hillsborough County operations are so functionally integrated that they have no separate identity. The Employer also argues that the registered nurses share a community of interest with the employees in the petitioned-for unit such that they must be included in that unit. There are approximately 365 employees in the unit sought by the Petitioner and there are about 505 employees in the unit sought by the Employer.

I have considered the evidence and arguments presented by the parties on each issue. As discussed below, I have concluded that the registered nurses need not be included in the unit. I have also concluded that employees employed in Hillsborough County need not be included in the unit. Accordingly, I have directed an election in a unit that consists of approximately 365 employees.

To provide a context for my discussion of those issues, I will provide a detailed explanation of the Employer's operations. Then I will explain the reasoning that supports each of my conclusions.

## **I. THE EMPLOYER'S OPERATIONS**

The Employer is a nationwide ambulance service. Its West Florida Division has operations in Pinellas and Hillsborough counties. The Employer has contracted with Pinellas County to be the County's exclusive provider of ambulance services. The Employer operates in Pinellas County under the trade name Sunstar. The Employer operates as American Medical Response (AMR) in Hillsborough County. The Employer is the exclusive provider of emergency services in Pinellas County, and the majority of the work it performs in Pinellas County is emergency work. In Hillsborough, the Employer operates on a fee for service basis and does not have a contract with Hillsborough County. The work performed in Hillsborough County mainly involves transfer of patients to and from or between facilities. In Hillsborough County, the Employer is only permitted to respond to emergencies as a back-up to Hillsborough County emergency services, and then only in non-emergency mode.

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<sup>3</sup> Apparently, the Pinellas operation does not employ anyone in the classification of "driver".

The Employer's corporate office evaluates its operations using key performance indicators. While the Employer submits its key performance indicators to corporate headquarters as the western division, the report distinguishes between Pinellas and Hillsborough and the standards are not the same for each county.<sup>4</sup>

The Employer's Pinellas operation employs 140 EMTs, 164 paramedics, 43 system status controllers (dispatchers), 18 materials management employees, 10 registered nurses, and 4 fleet technicians. The Hillsborough operation has 39 part-time EMTs, 76 full-time EMTs, 12 paramedics, 15 systems status controllers, 3 materials management employees, 3 fleet technicians, and 2 drivers.

In Pinellas, the employees report to a number of supervisors who report to four shift commanders. The four shift commanders report to the operations manager who reports to the division vice-president. Employees in Hillsborough County report to a number of supervisors who report to the director of operations. The director of operations reports to the division vice-president. None of the supervisors or managers in Pinellas or Hillsborough has any authority or responsibility outside of their respective counties.

The western division has a training manager who is responsible for training the employees in both Hillsborough and Pinellas. However, Hillsborough also has its own training manager and Pinellas has two employees engaged in training. Pinellas has a human resources generalist and a human resources representative to handle the day-to-day human resources issues. The human resources representative and the human resources generalist report to the division human resources manager. The division has one safety and risk manager who is in charge of safety and risk for both counties.

In addition to its emergency response work, Pinellas County also has a critical care team that includes registered nurses and some of the Pinellas employees work with the local SWAT

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<sup>4</sup>Some of the key performance indicators used by the Employer include the productivity of the employees, response times, number of accidents, and transport times. An example of the differences in key performance indicators is that the response times in each county are different.

team. The materials managers in Pinellas stock their own ambulances and they also stock the county fire departments. Hillsborough employees perform none of these additional functions.

The ambulances used in Hillsborough County are labeled as AMR. The uniforms worn by employees in Hillsborough are also labeled AMR. In Pinellas County the name Sunstar is used on both the ambulances and the employees' uniforms. Sunstar ambulances rarely leave Pinellas County and the systems status controllers in one county do not dispatch employees in the other county.

EMTs in Pinellas and Hillsborough have the same basic written job descriptions. However, EMTs in Hillsborough perform more tasks than do EMTs in Pinellas. For example, EMTs in Hillsborough can use combitubes<sup>5</sup>, assist patients with nitro, aspirin, and albuterol. EMTs in Hillsborough may also administer oral glucose to patients. EMTs in Hillsborough County are required to obtain a license similar to the license obtained by a taxi-cab driver, whereas there is no such requirement in Pinellas County.

The paramedics in Pinellas and Hillsborough Counties have almost identical written job descriptions. However, paramedics are required to obtain Pinellas County certification to work in the Pinellas operation. The Pinellas paramedics and the Pinellas EMTs are required to attend continuing education on a monthly basis. Hillsborough paramedics and EMTs have no such requirement.

The systems status controllers in Pinellas and Hillsborough perform certain similar functions, such as dispatching EMTs and paramedics. However, the system status controllers in Pinellas must be certified medical dispatchers and must be trained to give CPR instructions by telephone because they handle the Pinellas County emergency calls. Hillsborough systems status controllers are not required to have these additional qualifications. As noted above,

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<sup>5</sup> A combitube is a device consisting of two tubes used to administer oxygen. One tube goes into the patient's esophagus and the other apparently goes into the patient's airway.

Pinellas ambulances rarely leave Pinellas County. Likewise, Hillsborough ambulances rarely leave Hillsborough.<sup>6</sup>

The operations manager in Pinellas and, presumably, the director of operations in Hillsborough, determine the hiring needs in their respective operations. Then the supervisors in each county interview applicants and determine whom they want to hire. The division human resources manager reviews the applicant's background check and drivers' license check and retains the final word on whether or not an applicant is hired. However, it appears that the human resources manager's role is largely limited to screening applicants' background and license checks.

Pinellas and Hillsborough supervisors and managers independently evaluate the employees that report to them. The supervisors and managers in each county have the authority to issue discipline to employees, but have no authority over employees who are not working in the supervisor's or manager's county. The division human resources manager only reviews discipline issued by a manager or supervisor to make sure that it comports with corporate policy. However, the human resources manager does get involved in the disciplinary process if there is a need to conduct a harassment investigation or similar investigation requiring that confidentiality be maintained.

Employees hired in Pinellas and Hillsborough receive the same base wage rate. However, EMTs and paramedics who work in Pinellas receive incentives of \$1.00 and \$1.50 an hour, respectively. After being hired, employees from Pinellas and Hillsborough attend a four day orientation class in Pinellas County. Employees from both operations attend the four day orientation together. After the four day orientation, the employees are separated and have two more days of orientation that is specific to their county's operation. The employee handbook

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<sup>6</sup> On occasion an ambulance from Pinellas or Hillsborough may go into the other county if it is taking a patient to a hospital or other facility in the county. However, because neither operation has a certificate of need to provide service outside of their respective counties, special permission must be obtained before an ambulance can go to another county.

given to Hillsborough County employees is the AMR handbook, but it contains several sections that are specific to the Hillsborough County operation.

Following the initial orientation, employees receive some additional training. For example, employees receive advanced cardiac life support and CPR training. The classes are conducted at either the Pinellas facility or at the Hillsborough facility. The class sizes range from about 2 employees to 10 employees. About half of the classes have one or more employees from each operation, but most employees take the class when it is offered in the county where they work. The Employer also offers race rescue classes in Pinellas County. The classes are open to employees from Hillsborough County and to the public. Everyone, including employees, has to pay for race rescue training.

Employees can transfer between Pinellas and Hillsborough. However, the employees must go through an interview process and, if they are selected, they have to attend the orientation training that is specific to the new county. Eight employees have permanently transferred between Hillsborough and Pinellas. It appears that one employee was temporarily transferred for the employee's convenience.<sup>7</sup> Two employees work in Pinellas occasionally<sup>8</sup>. These two employees are part of the "Velcro" program. The program is known as the "Velcro" program because the employees must remove their AMR patches and put on Sunstar patches when they start working in Pinellas. Both "Velcro" program employees perform most of their work in Hillsborough. Hours worked in either county count toward overtime in the other county. However, if employees in the "Velcro" program have a problem with their payroll, they must resolve the problem with the human resources representative or the human resources generalist in the county where the problem arose.

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<sup>7</sup> The division human resources manager testified that one employee transferred to Pinellas, but then transferred back to Hillsborough dispatch because of a lifting restriction due to pregnancy. The human resources manager testified that the employee could return to Pinellas, but did not have to do so.

<sup>8</sup> The Employer entered in evidence a document stating that two Pinellas employees could work in Hillsborough, but no evidence was submitted showing that either ever actually worked in Hillsborough.

## II. ANALYSIS

### A. The Registered Nurses.

The parties stipulated that the registered nurses employed at the Employer's Pinellas facility are professional employees. The parties stipulated that the employees employed in all of the other job classifications are non-professionals. In Jefferson Health System, 330 NLRB 653 (2000), the Board denied the employer's request for review of the regional director's decision. In that decision, the regional director explained that a mixed professional-nonprofessional unit cannot be found "to be the sole appropriate unit for collective-bargaining purposes, otherwise the statutory limitations set forth in Section 9(b)(1) would be without meaning since professional employees would have to be represented as part of an overall unit or not at all." Thus, the petitioned-for unit excluding professional employees is an appropriate unit<sup>9</sup>. Accordingly, I conclude that registered nurses should be excluded from the unit in the present case.

### B. Scope of the Unit.

A single facility unit is presumptively appropriate unless it has been so effectively merged into a more comprehensive unit, or is so functionally integrated that it has lost its separate identity. Red Lobster, 300 NLRB 908 (1990).<sup>10</sup> The party opposing the unit has the burden to present evidence sufficient to rebut the presumption. J&L Plate Inc., 310 NLRB 429 (1993). To determine whether the presumption has been rebutted, the Board considers factors such as central control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions, and working conditions; degree of employee interchange; geographic proximity; and bargaining history. Cargill, Incorporated, 336 NLRB No. 118 (2001), citing New Britain Transportation Co., 330 NLRB No. 57 (1999).

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<sup>9</sup> The petitioned-for unit need only be an appropriate unit, not necessarily the most appropriate unit. See Morand Bros. Beverage, 91 NLRB 409 (1950) enfd. 190 F.2d 576 (7<sup>th</sup> Cir. 1951).

<sup>10</sup> See also Visiting Nurses Assn. of Central Illinois, 324 NLRB 55 (1997).

Here, the local supervisors and managers in Pinellas and Hillsborough maintain a high degree of autonomy over their respective operations and the Employer has common centralized control over labor relations only at the highest levels. The operations remain separate and do not share resources or dispatching systems. In summary, each county's supervisors and managers have largely autonomous control over their respective daily operations and labor relations.

The skills and functions of the employees employed in the two counties differ in some respects. The EMTs and paramedics in Pinellas and Hillsborough have certain similar skills and training. However, the EMTs in Hillsborough perform functions that Pinellas EMTs do not perform. Further, the basic nature of the work performed by EMTs and paramedics differs between counties since Pinellas County employees mainly respond to emergency calls and Hillsborough employees mostly just transport patients to and from or between facilities. The qualifications to hold the position of EMT or paramedic also differ between the counties. The Pinellas County materials management employees and systems status controllers perform functions and maintain skills that are not performed or required in Hillsborough County.

The evidence shows that the skills, functions, and working conditions of the petitioned-for unit of Pinellas employees are substantially different from the skills, functions, and working conditions of the Hillsborough employees. Thus, the Pinellas County employees share a separate community of interest.

There is almost no employee interchange. Evidence was introduced showing that employees from Pinellas and Hillsborough received some joint training, mainly during the first four days of orientation, but the joint training appears to occur on a limited basis. The employees from Pinellas almost never have contact with employees from Hillsborough during a regular workday.<sup>11</sup> The 8 or 9 permanent transfers between Hillsborough and Pinellas are

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<sup>11</sup> On occasion, employees from Hillsborough and Pinellas may run into each other at a hospital or other medical care facility while performing routine patient transfers.



insignificant considering that there are more than 500 employees working in the two operations. Further, because most, if not all, of the transfers are permanent, they are of less significance than is evidence of temporary transfers. J&L Plate, Inc., 310 NLRB 429 (1993). The one transfer that may be temporary is also of little weight since it appears to have been done for the convenience of the employee. Red Lobster, 300 NLRB 908 (1990). The two employees involved in the voluntary “Velcro” program are the most significant evidence of employee interchange. However, given the number of employees in the two counties and the time the two “Velcro” employees spend working in Pinellas, that evidence is of little significance.

While the Employer’s corporate office treats the Hillsborough County and Pinellas County operations as the western division for some purposes, the Employer continues to recognize and treat the counties as separate entities for many purposes. For example, if a payroll problem arises, the employee must address it in the county where the problem happened. The counties each have their own key performance indicators and they are separately identified on reports to the Employer’s corporate headquarters.

Finally, the parties have no bargaining history<sup>12</sup> and the facilities are about 25 miles apart.

The evidence does not show that the Pinellas and Hillsborough operations are functionally integrated. The Employer has not introduced evidence sufficient to overcome the presumption that a single facility unit is appropriate. To the contrary, the evidence shows that the operations are quite distinct.<sup>13</sup>

### **III. CONCLUSIONS AND FINDINGS**

**A.** The Hearing Officer’s rulings made at the hearing are free from prejudicial error and are affirmed.

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<sup>12</sup> In 1994 the Petitioner filed a petition seeking to represent a unit comprised of employees in both Pinellas County and Hillsborough County, but no certification of representative resulted from that election.

<sup>13</sup> Even if it were to be determined that the Employer is a health care employer (see Lifeline Mobile Medics, 308 NLRB 1068 (1992), my conclusions would not change.

**B.** The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

**C.** The Petitioner claims to represent certain employees of the Employer.

**D.** A question affecting commerce exists concerning the representation of certain Employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and 2(7) of the Act.

**E.** The following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time emergency medical technicians (EMTs), paramedics, materials management employees, system status controllers (SSCs), and fleet technicians employed by the Employer at 12490 Ulmerton Road, Largo, Florida; **excluding** registered nurses, office clerical employees, guards, and supervisors as defined in the Act.

#### **IV. DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Association of EMTs and Paramedics, Service Employees International Union – National Association of Government Employees, AFL-CIO. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

##### **A. Voting Eligibility.**

Eligible to vote are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees who engaged in such strike who have

retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in military service of the United States may vote if they appear in person at the polls. Ineligible to vote are (1) employees who have quit or have been discharged for cause since the designated payroll period; (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date; and (3) employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

#### **B. Employer to Submit List of Eligible Voters.**

In order to assure that all eligible voters have the opportunity to be informed of the issues in the exercise of the statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision and Direction of Election, two (2) copies of an alphabetized election eligibility list, containing the full names and addresses of all eligible voters in the unit found appropriate, shall be filed by the Employer with the Regional Director for Region 12. North Macon Health Care Facilities, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the Regional Office on or before March 13, 2003. No extensions of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list.

#### **C. Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of three full working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the elections are filed.

Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the Election Notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the Election Notice.

#### **V. RIGHT TO REQUEST REVIEW.**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14<sup>th</sup> Street, N.W. Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5:00 p.m., EST on March 20, 2003. The request may not be filed by facsimile.

DATED at Tampa, Florida, this 6th day of March 2003.

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